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February 22, 2005

By Facsimile to 202/219-3923

Lawrence H. Norton
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2005 FEB 28 A 11:06

**Re: MUR 5612
America Coming Together**

Dear Mr. Norton:

Respondent America Coming Together (ACT) submits this response to the additional information treated by the Commission as an amendment to the complaint submitted by Stefan Gleason and the National Right To Work Legal Defense and Education Foundation, Inc. ("NRWLDF") in this matter. The additional materials consist of a highlighted article by David Moberg in *The Nation* and an excerpt of a purported transcript of an interview with Ellen R. Malcolm, President of ACT, on the *Washington Post* website. Neither of these documents provides any evidence of unlawful activity by ACT or amplifies on the vague and inadequately framed allegations in the original complaint.

The *Nation* article states at most in relevant part: "Nationally, ACT has 2,461 full-time canvassers, and another 1,100 from the Service Employees International Union's 'Heroes' program, which pays workers to take months off their jobs to do political work," and then quotes ACT Chief Executive Officer Steven Rosenthal: "'We set out to build the largest voter-mobilization program in American history'...Although the program varies among the states, 'we focus heavily on the failures of this Administration: The economy stinks, it can't fund healthcare, Iraq is a quagmire.'"

This passage adds nothing to the complaint to date and provides no indication of any violation of the law by ACT. As explained in our original response submitted on January 5, 2005, ACT accepted and used in-kind contributions by Service Employees International Union (SEIU) in accordance with FECA. The *Nation* article does not even specify what work SEIU personnel undertook on ACT's behalf, and does not even

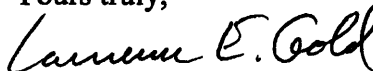
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connect it with the voter-mobilization activity very generally described by Mr. Rosenthal. In any event, such activity would be entirely lawful for SEIU to engage in either directly or via ACT; for, a labor organization may lawfully engage in voter education, voter registration and get-out-the-vote drives under 2 U.S.C. § 441b and 11 C.F.R. § 114.4. The *Nation* article suggests no conduct inconsistent with those provisions. We again urge the Commission to resist complainants' calls that it find "reason-to-believe" and initiate investigations on the basis of media articles that reflect no facts indicative of a violation of FECA.

The partial "transcript" of the Malcolm interview is submitted by the complainants because of her quoted remarks that "[ACT] will go on too, I hope, and that is certainly our plan. We want to make sure we can reach out to voters, keep them involved in the political process, and ultimately that means Democrats are going to win an awful lot of elections." We can discern no conceivable theory as to how these comments suggest a past violation by ACT or a violation that ACT "is about to commit," see 2 U.S.C. § 437g(a)(2). And, of course, Ms. Malcolm's quoted general aspiration makes no connection whatsoever between ACT and SEIU, the entity that is the principal focus of the complaint in this matter.

Accordingly, for the reasons stated above and in our January 5 submission, ACT respectfully requests that the Commission find no reason to believe that ACT has violated the Act, and that it dismiss the complaint.

Yours truly,



Laurence E. Gold

cc: Judith L. Corley